

EDMUND G. BROWN JR., Attorney General  
of the State of California  
JOSE R. GUERRERO, State Bar No. 97276  
Supervising Deputy Attorney General  
CATHERINE E. SANTILLAN  
Senior Legal Analyst  
California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-5579  
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE  
RESPIRATORY CARE BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2099

SAM SI-QUN TANG  
2221 Kenry Way  
South San Francisco CA 94080

**A C C U S A T I O N**

Respiratory Care Practitioner License No. 15399

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about August 24, 1992, the Respiratory Care Board issued Respiratory Care Practitioner License Number 15399 to Sam Si-Qun Tang (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2007, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2           4.       Section 3710 of the Code states: “The Respiratory Care Board of  
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
4 8.3, the Respiratory Care Practice Act].”

5           5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
6 and revoke licenses to practice respiratory care as provided in this chapter.”

7           6.       Section 3750 of the Code states:

8           “The board may order the denial, suspension or revocation of, or the imposition of  
9 probationary conditions upon, a license issued under this chapter, for any of the following  
10 causes:

11           “(d) Conviction of a crime that substantially relates to the qualifications,  
12 functions, or duties of a respiratory care practitioner. The record of conviction or a  
13 certified copy thereof shall be conclusive evidence of the conviction.”

14           “(g) Conviction of a violation of any of the provisions of this chapter or of any  
15 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
16 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to  
17 violate any provision or term of this chapter or of any provision of Division 2  
18 (commencing with Section 500).”

19           “(j) The commission of any fraudulent, dishonest, or corrupt act which is  
20 substantially related to the qualifications, functions, or duties of a respiratory care  
21 practitioner.”

22           7.       Section 3752 of the Code states:

23           “A plea or verdict of guilty or a conviction following a plea of nolo contendere  
24 made to a charge of any offense which substantially relates to the qualifications,  
25 functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
26 the meaning of this article. The board shall order the license suspended or revoked, or  
27 may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
28 conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under Section  
2 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
3 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
4 accusation, information, or indictment.”

5 8. California Code of Regulations, title 16, section 1399.370, states:

6 “For the purposes of denial, suspension, or revocation of a license, a crime or act  
7 shall be considered to be substantially related to the qualifications, functions or duties of  
8 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
9 perform the functions authorized by his or her license or in a manner inconsistent with the  
10 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
11 those involving the following:

12 “(a) Violating or attempting to violate, directly or indirectly, or assisting or  
13 abetting the violation of or conspiring to violate any provision or term of the Act.”

14 “(b) Conviction of a crime involving fiscal dishonesty, theft, or larceny.”

#### 15 COST RECOVERY

16 9. Section 3753.5, subdivision (a) of the Code states:

17 "In any order issued in resolution of a disciplinary proceeding before the board,  
18 the board or the administrative law judge may direct any practitioner or applicant found to have  
19 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
20 investigation and prosecution of the case."

21 10. Section 3753.7 of the Code states:

22 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
23 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
24 administrative, filing, and service fees."

25 11. Section 3753.1 of the Code states:

26 "(a) An administrative disciplinary decision imposing terms of probation may  
27 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
28 associated with monitoring the probation. "

1 FIRST CAUSE FOR DISCIPLINE

2 2006 Conviction

3 12. Respondent is subject to disciplinary action under sections 3750(d) and  
4 3752 [conviction], 3750(g), 3750(j) and CCR 1399.370(a) and (c) [dishonest act] in that he has  
5 two convictions for violating Penal Code section 484, theft less than \$400.00. The circumstances  
6 are as follows:

7 13. On or about October 26, 2006, respondent was arrested for taking a  
8 camera and lens set from Target store and not paying for it. The merchandise was priced at  
9 \$199.99. A citation was issued for violating Penal Code section 488, petty theft, and respondent  
10 was released on his promise to appear with a court date of December 7, 2006.

11 14. On or about December 5, 2006, a criminal complaint titled *People of the*  
12 *State of California vs. Siqun Sam Tang*, case no. NM362621A, was filed in Superior Court, San  
13 Mateo County. Count 1 charged respondent with violating Penal Code section 484, theft of  
14 property valued at less than \$400.00. It was further alleged that the property was merchandise  
15 and the victim was a merchant.

16 15. On or about December 7, 2006, respondent entered a plea of not guilty to  
17 Count 1. On February 23, 2007, he withdrew the not guilty plea and entered a plea of nolo  
18 contendere. The special allegations were stricken. Respondent was convicted and placed on 18  
19 months court probation; ordered to serve one day in jail; pay fines totaling \$654.00.

20 2005 Conviction

21 16. On or about May 25, 2005, respondent was arrested for taking a DVD  
22 player from J.C. Penney store without paying for it. The merchandise was priced at \$169.99. A  
23 citation was issued for violating Penal Code section 488, petty theft.

24 17. On or about June 23, 2005, a criminal complaint titled *People of the State*  
25 *of California vs. Sam Si Qun Tang*, case no. NM349575 was filed in Superior Court, San Mateo  
26 County. Count 1 charged respondent with violating Penal Code section 484, theft of property  
27 valued at less than \$400.00. It was further alleged that the property was merchandise and the  
28 victim was a merchant.

18. On or about October 11, 2005, respondent entered a plea of nolo contendere to violating Penal Code section 484/490.5 and admitted the special allegation. The court suspended imposition of sentence, placed respondent on court probation for eighteen months, and ordered him to pay a fine and assessments.

19. Therefore, respondent's license is subject to discipline based on his two convictions for violating Penal Code section 484, petty theft, which is substantially related to the practice of respiratory care.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking or suspending Respiratory Care Practitioner License Number 15399, issued to Sam Si-Qun Tang.

2. Ordering Sam Si-Qun Tang to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;

3. Taking such other and further action as deemed necessary and proper.

DATED: September 12, 2007

Original signed by Liane Zimmerman for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant